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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/797,357 | 03/10/2004 | Maurizio Brandolini | D-30237-02 | 4337 |
| 28236 | 7590 | 03/29/2006 | EXAMINER | |
| CRYOVAC, INC. SEALED AIR CORP P.O. BOX 464 DUNCAN, SC 29334 | | | MUSSEY, BARBARA J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1733 | |

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,357

Applicant(s)

BRANDOLINI ET AL.

Examiner

Barbara J. Musser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) 24-29 and 34-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 30-33 and 40-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/10/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species: species A: forming the envelope by folding a web and species B: forming an envelope by joining two separate webs. The species are independent or distinct because they cannot be performed together.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

2. During a telephone conversation with Mark Quatt on 2/6/06 a provisional election was made without traverse to prosecute the invention of species A, claims 30-33 and 40-33. Affirmation of this election must be made by applicant in replying to this Office

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action. Claims 24-29 and 34-39 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strzelewicz(U.S. Patent 4,868,025) in view of Makowka(U.S. Patent 4,733,817), Burke(U.S. Patent 4,716,069), and Raszewski(U.S. Patent 4,698,254).

Strzelewicz discloses a method of forming a cushioned envelope by laminating together an outer thermoplastic web(preferably polyethylene), a middle polyethylene web, and an inner polyolefin foam web, folding the laminate, and sealing the edges.(Col. 2, ll. 33-46; Col. 3, ll. 15-21) The reference does not disclose the outer layer being polypropylene. Makowka discloses an envelope can be made of one or more layers of polyethylene or polypropylene.(Col. 3, ll. 28-35) It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the polyethylene outer layer of Strzelewicz with a polypropylene layer since Makowka discloses they are well-known alternatives in the envelope arts(Col. 3, ll. 28-35) particularly since Raszewski shows it is known to have multi-layer envelopes wherein the outer layer is not polyethylene.(Col.1, ll. 28-32)

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The references cited above do not disclose the specifics of how the layers are joined together. Burke discloses laminating a film to a foam using a pair of rollers, the film side roller being heated.(Col. 3, ll. 63-68; Col. 4, ll. 35-38, 54-57) It would have been obvious to one of ordinary skill in the art at the time the invention was made form a laminate of the polypropylene and polyethylene layers since film laminates are well-known and conventional in the envelope arts and then join them to a foam layer using a heated roller on the laminate side since Burke discloses bonding together a foam layer with a film layer using a set of rollers, the one on the film side being heated since this forms a strong physical bond between the layers.(Col. 4, ll. 60-61)

Regarding claim 31, Strzelewicz discloses a closure flap(8) which is integral with one of the envelope sides.(Figure 1)

5. Claims 30, 31, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strzelewicz in view of Bell(U.S. Patent 5,046,621), Makowka, Burke and Raszewski.

Strzelewicz discloses a method of forming a cushioned envelope by laminating together an outer thermoplastic web(preferably polyethylene), a middle polyethylene web, and an inner polyolefin foam web, folding the laminate, and sealing the edges.(Col. 2, ll. 33-46; Col. 3, ll. 15-21) The reference does not disclose the outer layer being polypropylene. Bell discloses envelopes can be made from nylon(polyamide)/polyethylene or polyester/polyethylene laminates.(Col. 3, ll. 27-30) Since polyethylene is a better heat sealing material than nylon or polyester, one in the art would appreciate that the polyethylene would be the inner layer when forming the

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envelope. It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the polyethylene outer layer of Strzelewicz with a polyester or nylon layer since Bell discloses they are well-known alternatives in the envelope arts(Col. 3, ll. 27-30) particularly since Raszewski shows it is known to have multi-layer envelopes wherein the outer layer is not polyethylene.(Col.1, ll. 28-32)

The references cited above do not disclose the specifics of how the layers are joined together. Makowka discloses that layers of an envelope can be coextruded or laminated together.(Col. 3, ll. 31-37) Burke discloses laminating a film to a foam using a pair of rollers, the film side roller being heated.(Col. 3, ll. 63-68; Col. 4, ll. 35-38, 54-57) It would have been obvious to one of ordinary skill in the art at the time the invention was made coextrude the nylon or polyester outer layer and the polyethylene layer rather than laminate them together as suggested by Strzelewicz(Col. 3, ll. 16-17) since Makowka discloses they are well-known alternatives in the envelope arts.(Col. 3, ll. 31-33)and then join them to a foam layer using a heated roller on the laminate side since Burke discloses bonding together a foam layer with a film layer using a set of rollers, the one on the film side being heated since this forms a strong physical bond between the layers.(Col. 4, ll. 60-61)

Regarding claims 31 and 41, Strzelewicz discloses a closure flap(8) which is integral with one of the envelope sides.(Figure 1)

6. Claims 32, 33, 42, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strzelewicz, Bell, Makowka, Burke, and Raszewski as applied to claims 30 and 40 above, and further in view of Jillson(U.S. Patent 5,273,361).

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The references cited above do not disclose the sides of the envelope being the same length, one of which as a sealing tape thereon which can close the envelope. Jillson discloses an envelope with the sides of the envelope being the same length, one of which as a sealing tape thereon which can close the envelope.(Figure 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the envelope of Strzelewicz, Bell, Makowka, and Burke an envelope with both sides being the same length, one of which has a sealing tape thereon since Jillson discloses this is a well-known type of envelope.

Regarding claims 33 and 43, while Jillson discloses using an adhesive to close the envelope, sealing the edges of an envelope using heat sealing is well-know as shown for example by Strzelewicz which shows heat sealing multiple sides of an envelope.(Abstract) It would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the adhesive in the envelope flap so that the envelope flap is heat-sealable since Strzelewicz shows that heat sealing the edges of an envelope is well-known in the envelope arts.(Abstract)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara J. Musser whose telephone number is (571) 272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJM

BJM


SAM CHUAN YAO
PRIMARY EXAMINER